

<b>Notice of Allowability</b>	<b>Application No.</b>	<b>Applicant(s)</b>	
	09/673,395	SPECHT ET AL.	
	<b>Examiner</b>	<b>Art Unit</b>	
	Jeanine A Goldberg	1634	

**-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address--**

All claims being allowable, PROSECUTION ON THE MERITS IS (OR REMAINS) CLOSED in this application. If not included herewith (or previously mailed), a Notice of Allowance (PTOL-85) or other appropriate communication will be mailed in due course. **THIS NOTICE OF ALLOWABILITY IS NOT A GRANT OF PATENT RIGHTS.** This application is subject to withdrawal from issue at the initiative of the Office or upon petition by the applicant. See 37 CFR 1.313 and MPEP 1308.

1. ☒ This communication is responsive to 4/14/03; 3/20/03.
2. ☒ The allowed claim(s) is/are 39.
3. ☒ The drawings filed on 12/27/00 are accepted by the Examiner.
4. ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
  - a) ☒ All    b) ☐ Some\*    c) ☐ None    of the:
    1. ☐ Certified copies of the priority documents have been received.
    2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
    3. ☒ Copies of the certified copies of the priority documents have been received in this national stage application from the International Bureau (PCT Rule 17.2(a)).
- \* Certified copies not received: \_\_\_\_\_.
5. ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application).
  - (a) ☐ The translation of the foreign language provisional application has been received.
6. ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

Applicant has THREE MONTHS FROM THE "MAILING DATE" of this communication to file a reply complying with the requirements noted below. Failure to timely comply will result in ABANDONMENT of this application. **THIS THREE-MONTH PERIOD IS NOT EXTENDABLE.**

7. ☐ A SUBSTITUTE OATH OR DECLARATION must be submitted. Note the attached EXAMINER'S AMENDMENT or NOTICE OF INFORMAL PATENT APPLICATION (PTO-152) which gives reason(s) why the oath or declaration is deficient.
8. ☐ CORRECTED DRAWINGS must be submitted.
  - (a) ☐ including changes required by the Notice of Draftsperson's Patent Drawing Review (PTO-948) attached
    - 1) ☐ hereto or 2) ☐ to Paper No. \_\_\_\_\_.
  - (b) ☐ including changes required by the proposed drawing correction filed \_\_\_\_\_, which has been approved by the Examiner.
  - (c) ☐ including changes required by the attached Examiner's Amendment / Comment or in the Office action of Paper No. \_\_\_\_\_.

Identifying indicia such as the application number (see 37 CFR 1.84(c)) should be written on the drawings in the top margin (not the back) of each sheet. The drawings should be filed as a separate paper with a transmittal letter addressed to the Official Draftsperson.

9. ☐ DEPOSIT OF and/or INFORMATION about the deposit of BIOLOGICAL MATERIAL must be submitted. Note the attached Examiner's comment regarding REQUIREMENT FOR THE DEPOSIT OF BIOLOGICAL MATERIAL.

**Attachment(s)**

- |  |  |
|--|--|
| 1 <input type="checkbox"/> Notice of References Cited (PTO-892)  | 2 <input type="checkbox"/> Notice of Informal Patent Application (PTO-152)               |
| 3 <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)                    | 4 <input checked="" type="checkbox"/> Interview Summary (PTO-413), Paper No. <u>0403</u> |
| 5 <input type="checkbox"/> Information Disclosure Statements (PTO-1449), Paper No. _____               | 6 <input checked="" type="checkbox"/> Examiner's Amendment/Comment                       |
| 7 <input type="checkbox"/> Examiner's Comment Regarding Requirement for Deposit of Biological Material | 8 <input checked="" type="checkbox"/> Examiner's Statement of Reasons for Allowance      |
|  | 9 <input type="checkbox"/> Other _____   |

### EXAMINER'S AMENDMENT

1. An extension of time under 37 CFR 1.136(a) is required in order to make an examiner's amendment which places this application in condition for allowance. During a telephone conversation conducted on April 17, 2003, Nicole Kinsley requested an extension of time for 1 MONTH(S) and authorized the Commissioner to charge Deposit Account No. 13-3402 the required fee.

2. Should the changes and/or additions be unacceptable to applicant, an amendment may be filed as provided by 37 CFR 1.312. To ensure consideration of such an amendment, it MUST be submitted no later than the payment of the issue fee.

3. The application has been amended as follows:

Claim 39 has been amended to recite - - An isolated nucleic acid consisting of  
SEQ ID NO: 33. - -

4. The following is an examiner's statement of reasons for allowance.

Upon further consideration of the examples and disclosure provided in the specification, the examiner determined that a polypeptide consisting of SEQ ID NO: 238 was not enabled, since the specification had only demonstrated that the partial cDNA of SEQ ID NO: 33 was over expressed in endometrial tumor tissue. As evidenced by the Table on page 170, the DNA sequence encodes three polypeptides, namely SEQ ID NO: 238, 239, 240. The specification does not teach nor assert that each of these

polypeptides are over expressed in endometrial tumor tissue. Therefore, as discussed in the interview summary, the examiner called applicant and offered applicant the opportunity to switch inventions to a nucleic acid consisting of SEQ ID NO: 33, which has been shown to be over expressed 39 times in endometrial tumor tissue as compared to normal endometrial tissue.

The closest prior art is directed to nucleic acids for human lipophilin C consisting of 496 nucleotides (Genbank Accession Number AJ224173, March 25, 1999). The nucleic acid, when compared to SEQ ID NO: 33 is 93.6% similar with 99.8% local similarity.

The art also teaches a human mammaglobin B precursor mRNA consisting of 517 nucleotides which has 93.2% similarity with SEQ ID NO: 33 (Genbank Accession Number AF071219, November 26, 1998).

The art neither teaches nor suggests a nucleic acid consisting of SEQ ID NO: 33.

5. Any comments considered necessary by applicant must be submitted no later than the payment of the issue fee and, to avoid processing delays, should preferably accompany the issue fee. Such submissions should be clearly labeled "Comments on Statement of Reasons for Allowance."

6. Any inquiry concerning this communication or earlier communications from the examiner should be directed to examiner Jeanine Goldberg whose telephone number is (703) 306-5817. The examiner can normally be reached Monday-Friday from 8:00 a.m. to 5:30 p.m.

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If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Gary Jones, can be reached on (703) 308-1152. The fax number for this Group is (703) 305- 3014.

Any inquiry of a general nature should be directed to the Group receptionist whose telephone number is (703) 308-0196.

*J. Goldberg*  
Jeanine Goldberg  
April 17, 2003

*Gary Benzion*  
GARY BENZION, PH.D  
SUPERVISORY PATENT EXAMINER  
TECHNOLOGY CENTER 1600